On the 6th June 1964 the union wrote to the Commissioner for Labour, the respondent in these proceedings, requesting him to intervene in the dispute between the union and the association on the matter of recognition of the union by the association. On the 11th June 1964 the union received a reply from the respondent, stating, *inter alia,* that in his view "the employees of the Automobile Association of Singapore are not eligible to join the union as members". Thereafter the union commenced these proceedings.

In my view, eligibility for membership of the union is governed by rule 3(a) of the union's Rules, which states that membership of the union is open to "all workers, regardless of race and sex, over the age of 18, who are employed in any private undertaking or industry in Singapore". To become a member of the union, a person must in the first place be over the age of 18, and, secondly, he must be employed in any private undertaking or industry in Singapore.

The issue to be determined in these proceedings is whether or not the Automobile Association of Singapore is a "private undertaking or industry" within the meaning of rule 3(a) of the union's Rules. In my opinion it clearly is. The association is not an industry but it certainly is a private undertaking in the sense that it undertakes to provide and does provide certain facilities to its members. It is a business organisation registered as a private society. The fact that the association is non-profit making is in my view irrelevant. I have not the least doubt that it is an undertaking and I cannot see how it can be said that it is not an "undertaking".

It was urged on behalf of the respondent that the title of the union shows that it was the intention of the persons who framed the rules of the union, to embrace all industrial workers and the expression "undertaking" refers to industrial undertakings. Counsel used the analogy of interpretation of an Act of Parliament and submitted that in the expression "undertaking or industry" the meaning of the word "undertaking" should be restricted to undertakings of an industrial character.

In my view there is no ambiguity in the expression "private undertaking or industry" in the context in which it is used. It means what it says. The framers of this rule cast their net very wide. They left the door to membership wide open to all persons employed in all private undertakings, industrial or otherwise. This is clear from the objects of the union set out in rule 2(a), viz. "to secure the complete organisation and unity of all workers in private employment in Singapore".

For these reasons I held that the Automobile Association of Singapore is a private undertaking within the meaning of rule 3(a) of the Rules and Constitution of the Singapore Industrial Workers Union and that the employees of the association are eligible for membership of the union.

Order accordingly.

MONTEIRO v. PUBLIC PROSECUTOR

[A.Cr.J. (Ismail Khan J.) August 7, 1964]

[Malacca — Criminal Appeal No. 2 of 1964]

Criminal Procedure — Court finding accused guilty before hearing submissions of defence counsel — Defence counsel bringing this to attention of court — Counsel refusing to submit when opportunity given — Whether court can alter finding before it rises for the day — Court convicting accused — Whether proper — Criminal Procedure Code (S.S. Cap. 21), s. 272.

Penal Code, s. 165.

The appellant was found guilty on a charge under section 165 of the Penal Code. On appeal against conviction it was contended (i) that his counsel was never given an opportunity of addressing the court at the close of the case and (ii) the learned President having already made his finding could not alter such a finding notwithstanding any submission on the part of counsel. The record showed that at the close of the case the learned President found the appellant guilty before his counsel addressed the court. When the President's attention was drawn to this by defence counsel, before sentence was passed, he gave counsel an opportunity to make his submissions, however, counsel declined to do so.

Held: (1) the learned President's first finding was due purely to inadvertence. It was not final as the court had not arisen for the day. It was open to him to call on defence counsel to make his submissions after such a finding and in the light of counsel's submissions, to alter, if necessary, that finding;

(2) in this case as defence counsel did not avail himself of that opportunity, it could not be said that opportunity to address the court was denied to counsel.

CRIMINAL APPEAL.

Chew Kok Chooi for the appellant.

Abdul Razak bin Dato Abu Samah (Deputy Public Prosecutor) for the respondent.

Ismail Khan J.: The appellant was charged as follows:—

"That you on the 27th day of June 1963 at about 10.10 a.m. at Jalan Kampong Hulu, in the Central District of Malacca, in the State of Malacca, being an agent employed by public body namely the Government of the Federation of Malaya, as a Detective Sergeant 213 of the Royal Federation of Malaya Police, did corruptly accept from one See Thin Beng, for yourself a gratification of $300 (dollars three hundred only) as an inducement for doing an act in relation to your principal's affairs, to wit, for forbearing to investigate on See Thin Beng, a suspected illegal immigrant, and that you thereby committed an offence punishable under section 4(a) of the Prevention of Corruption Act No. 42 of 1961."

Alternatively:

"That you on the same date, time and place, being a public servant, namely Detective Sergeant 213 of the Royal Federation of Malaya Police, did accept a valuable

thing, namely $300 (dollars three hundred only) cash without consideration from one See Thin Beng, whom you knew to be likely to be concerned with your official function, and that you thereby committed an offence punishable under section 165 of the Penal Code."

He was found guilty on the alternative charge and sentenced to eight months' imprisonment. This appeal is against both conviction and sentence.

The only ground of appeal against conviction is that the appellant's counsel was never given an opportunity of addressing the court at the close of the case.

It would appear from the records that at the close of the case the learned President found the appellant guilty before his counsel could address the court. This was due purely to inadvertence on the part of the learned President and on his attention being drawn to it, by defence counsel, before sentence was passed he gave the latter an opportunity to make his submissions. Counsel however said: "I will not make a submission and I leave it to Your Honour". The learned President then made this finding: "I find accused guilty of the alternative charge and convict him". He then proceeded to sentence him. At the hearing of this appeal Mr. Chew for the appellant, who also appeared for him in the lower court, said that the learned President was wrong in finding the appellant guilty without giving him an opportunity of making an address. He also contended that although after having made the finding and on realising that counsel had not been given a chance to address, he then gave counsel this opportunity, the learned President having already made his finding could not alter such a finding notwithstanding any submissions on the part of counsel. It seems to me that Mr. Chew fails to appreciate the effect of section 272 of the Criminal Procedure Code which reads:—

"(1) No Court other than the High Court, when it has recorded its judgment, shall alter or review the same.

(2) A clerical error may be rectified at any time and any other mistake may be rectified at any time before the Court rises for the day."

It is clear that when the learned President first made his finding that the appellant was guilty, this finding was not final as the court had not arisen for the day. It was open to the learned President to call on defence counsel to make his submissions after such a finding and in the light of counsel's submissions to alter, if necessary, this finding. As defence counsel did not wish to avail himself of this opportunity, the learned President therefore convicted the appellant and imposed his sentence. In the circumstances I cannot see how it can be said that opportunity to address the court was denied to counsel. This ground of appeal therefore fails.

With regard to sentence, the appellant has a previous conviction for a similar offence committed on the same day as this offence. I see no reason to disturb the sentence.

The appeal is dismissed.

Appeal dismissed.

Solicitors: *Kam Woon Wah & Co.*

KIAW AIK HANG CO. LTD. v. TAN TIEN CHOY

[O.C.J. (Choor Singh J.) August 11, 1964]

[Singapore — Suit No. 1255 of 1960]

Hire-purchase — Car let by finance company to hirer — Hirer paying off and acquiring ownership of car — Hirer reselling car to finance company — Entry into second hire-purchase agreement — Money advanced by owner to hirer — Whether money-lending transaction — Whether bill of sale given by way of security — Whether void — Bills of Sale Ordinance (Cap. 22), s. 4(1).

Bills of sale — Hire-purchase agreement — Bill of sale given by way of security — Want of registration — Whether void.

Moneylending — Hire-purchase — Money advanced by owner to hirer — Whether moneylending transaction.

By a hire-purchase agreement in writing dated June 2, 1959 the plaintiffs, a finance company, let a taxi to the defendant, a taxi driver, on hire-purchase at the hire purchase price of $10,153.50. The defendant paid the initial payment on the same day and subsequently he paid 8 monthly instalments. On March 9, 1960 the defendant agreed to pay to the plaintiffs the total amount then due under the agreement and thereby acquire ownership of the car. He was then to sell the car back to the plaintiffs for $8,000. What happened in fact was that the plaintiffs deducted the amount of the remaining instalments less a rebate from the purchase price of $8,000 and paid the balance to the defendant in cash. On the same day the plaintiffs entered into a second hire-purchase agreement with the defendant under which the agreed hire-purchase price was $9,568. The defendant again made an initial payment and agreed to pay the balance by monthly instalments. There was a further transaction relating to the car between the parties on June 17, 1960, and the facts of this transaction were in dispute. However, the learned judge found that this third transaction did not affect the question of the ownership of the car.

The plaintiffs sought a declaration that they were the owners of the motor-car.

Held: (1) before the second hire-purchase agreement was entered into on March 9, 1960 the plaintiffs were the legal owners of the car but the defendant had an interest in it;

(2) the purchase of the car by the defendant on March 9, 1960, its resale to the plaintiffs and the repurchase on hire-purchase terms by the defendant were all part and parcel of one transaction which was a money-lending transaction. The defendant on that day had raised a loan upon the security of the car. The second hire-purchase agreement was therefore a bill of sale given by way of security for the payment of money by the defendant and was void in respect of the car for want of registration under the Bills of Sale Ordinance;

(3) the plaintiffs therefore remained the owners of the car under the first hire-purchase agreement.